

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 2:07cr28-MEF
)	
CLARENCE EARL BIVINS)	

UNITED STATES' UNOPPOSED MOTION TO AMEND THE PLEA AGREEMENT

Comes now the United States of America, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and respectfully submits this unopposed motion to amend the plea agreement between the United States of America and Clarence Earl Bivins for the reasons stated below:

1. On September 24, 2007, the defendant pled guilty to Count 1 of the indictment, pursuant to a written plea agreement filed under Rule 11(c)(1)(A) and (c)(1)(C), *Federal Rules of Criminal Procedure*, as amended. (Doc. 44).

2. Under the Government's Provisions, paragraphs 1.a., 1.d., and Defendant's Provisions, paragraph 3.b., the parties agrees that the if the court imposed a sentence less than ten years imprisonment, the plea agreement would become void.

3. Based upon the calculations of the United States Probation Officer, the parties believe that the defendant meets the criteria in 18 U.S.C. § 3553(f)(1)-(5) and U.S.S.G. § 5C1.2, for safety valve. In support, the government submits that the defendant was interviewed on December 12, 2007, by the case agent regarding criteria (5), and the government believes that the defendant was truthful with respect to information and evidence the defendant had concerning the offense that was part of his course of conduct. It has been previously determined that the defendant also meets the criteria in § 3553(f)(1)-(4).

Therefore, the United States respectfully requests that the plea agreement be amended to remove any language which limits the Court's ability to sentence the defendant pursuant to 18 U.S.C. § 3553(f)(1)-(5) and U.S.S.G. § 5C1.2.

Respectfully submitted on this 14th day of December 2007.

LEURA G. CANARY
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CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: William R. Blanchard, Esq.

Respectfully submitted,

/s/Tommie Brown Hardwick
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